DN FBT CV 15 6048103-S

DONNA L. SOTO, ADMINISTRATRIX OF THE ESTATE OF VICTORIA L. SOTO, DECEASED, ET AL.	)	SUPERIOR COURT
	)	J.D. OF FAIRFIELD/BRIDGEPORT @ BRIDGEPORT
v.	)	
BUSHMASTER FIREARMS INTERNATIONAL, LLC, ET AL.	)	MAY 16, 2016

REPLY OF DEFENDANTS, REMINGTON OUTDOOR COMPANY, INC. and REMINGTON ARMS COMPANY, LLC, TO PLAINTIFFS' PARTIAL OBJECTION TO MOTION FOR EXTENSION OF TIME (#142.00)

The Defendants in the above-referenced matter, REMINGTON OUTDOOR COMPANY, INC. and REMINGTON ARMS COMPANY, LLC ("Remington"), respectfully replies to the Plaintiffs' Partial Objection to Motion for Extension of Time dated May 12, 2016 (#140.00, #159.00) for the reasons set forth herein.

1. Plaintiffs served their First Request for Production on Remington on or about November 13, 2015.

2. At the time Plaintiffs served their First Requests for Production on Remington, the Court had already scheduled a status conference on this matter for November 17, 2015.

3. At the status conference on November 17, 2015, counsel for Remington and the other Defendants advised counsel for the plaintiffs and the Court that they would be filing a Motion to Dismiss for lack of subject matter jurisdiction, and the Defendants agreed to do so on December 11, 2015.

4. Once the issue of subject matter jurisdiction was raised, even informally, all proceedings on the matter cannot proceed until the Motion to Dismiss is decided.

5. To be certain that there would be no future dispute about Remington's ability to interpose objections or seek additional time to respond to the Requests for Production, counsel for Remington and counsel for the plaintiffs specifically discussed the issue. On December 9, 2015, the parties agreed that Remington would not be obligated to file objections or motions for extension until after a ruling on the impending Motion to Dismiss that subsequently was filed. Counsel for Remington sent an email to plaintiffs' counsel confirming the agreement which stated: "While expressly preserving the right to have defendants respond to the pending discovery requests within a reasonable time, you have agreed that the defendants need not respond to the discovery within the 30 day time period set by the rules, and by not responding defendants have not waived any objections they may have to your discovery requests."

6. On April 14, 2016, the Court denied the Motion to Dismiss.

7. On April 18, 2016, Remington filed a Motion for Extension of Time to respond or object to the Plaintiffs' Request for Production. That Motion for Extension of Time sought until May 16, 2016, 32 days from the ruling denying the Motion to Dismiss, within which to serve objections, and until June 13, 2016, 60 days from the ruling, within which to respond to the Requests for Production.

8. It was not until after the Court's April 14, 2016 ruling on the Motion to Dismiss that the Plaintiffs first raised the argument to Remington that the defendants had sufficient time to prepare objections and responses to the Requests for Production, during the pendency of the

briefing, argument and ruling on the Motion to Dismiss. In fact, Remington had no obligation to respond or object to discovery during the pendency of the Motion to Dismiss as no matters were allowed to proceed on the case until the subject matter jurisdiction issue was resolved.

9. Following the Court's ruling on the Motion to Dismiss on April 14, 2016, Remington has attempted to cooperate with the plaintiffs with respect to discovery.

10. Counsel for the Plaintiffs and counsel for the Defendants attended a status conference before the Court on April 19, 2016 and worked out a comprehensive scheduling order which, among other things, provided that the parties would exchange written discovery requests by May 1, 2017, and exchange responses to those written discovery requests by June 2, 2017, more than a year from now.

11. Counsel for the plaintiffs and counsel for all defendants had an extensive conference call on April 29, 2016 wherein the plaintiffs and defendants specifically agreed that Remington would file its objections to the Requests for Production until May 16, 2016 and that responses would be served on June 13, 2106.

12. During and prior to the April 29, 2016 telephone conference, counsel for Remington, James Vogts, advised counsel for plaintiffs that he was starting a trial in another matter on May 16, 2016 which was expected to last two to three weeks, and therefore would be unavailable during that time to meet and confer regarding any discovery objections that would be filed on May 16, 2016. Counsel for the plaintiffs and counsel for Remington also agreed that due to Attorney Vogts' trial, the parties would meet and confer on June 2, 2016 to discuss any objections that Remington filed with respect to the Requests for Production.

13. Counsel for the plaintiffs did not indicate that they were going to file any objection to Remington's request that it be permitted until June 13, 2016 to respond to any requests for production to which it had not asserted objections and counsel for Remington understood that counsel for the plaintiffs had no objection to those requested dates as requested in the Motion for Extension of Time (#142.00).

14. Counsel for Remington and counsel for the plaintiffs had further communications regarding discovery issues during the week of May 9, 2016 to attempt to resolve informally asserted objections to a corporate designee deposition of Remington. The parties have agreed that said corporate designee deposition will take place on July 13, 2016 in North Carolina, subject to the resolution by agreement or court order of the informal objections of Remington to the clarity of the scope of the designated areas of inquiry.

15. Despite the above referenced good faith efforts to move forward with discovery, on May 12, 2016, to the surprise of counsel for Remington, Plaintiff filed a partial objection to Remington's Motion for Extension of Time seeking an order requiring Remington to begin a rolling production of documents on May 16, 2016.

16. Even if plaintiffs have changed their position and no longer agree to an extension to June 13, 2016 for Remington to respond to the Request for Production, Remington represents that commencing the production of documents by May 16, 2016 and completing the production by June 13, 2016 is not feasible or possible, for the following reasons:

(a) As Plaintiffs are well aware, and which they acknowledge in their Objection, Remington's lead counsel, James Vogts, is starting a trial on May 16, 2016 that is

expected to take from two to three weeks, which is the primary reason that the parties scheduled their meet and confer regarding Remington's May 16, 2016 objections to June 2, 2016. Remington will not be able to produce documents without the complete attention and review by its lead counsel, James Vogts.

(b) The production is expected to be quite voluminous and will likely need to be produced on a rolling basis, which Remington will commence on June 13, 2016 and diligently work to complete thereafter..

(c) Plaintiffs' Requests for Production implicate the need to search electronically stored information, going back many years, which requires the identification of multiple record keepers, the search of electronically stored information of those record keepers maintained on one or more servers, and the manual review of the electronic records after searches are completed for responsiveness and to insure the protection of any privileged or confidential information. While Remington has commenced the process, it is not yet complete as the parties have not agreed on a scope, or asked the court to rule on objections as to scope, since those objections are not even going to be filed until May 16, 2016 and on which plaintiffs and Remington are not scheduled to meet and confer until June 2, 2106. Since counsel for the Plaintiffs and counsel for Remington are not going to meet and confer until June 2, 2016, and the scope of the search for electrically stored information will be implicated by any agreements that may be reached with respect to the scope of discovery or, barring agreement, by any order of the Court with respect to the scope of discovery, it is not feasible to complete those searches for electronically stored information until such time as there is a resolution of the objections.

17. For the same reasons stated above, in the event the Court were to overrule certain objections of Remington – which will be filed on May 16, 2016 – Remington will require more than an additional 14 days to complete the production of any documents which the Court may order produced. Practice Book Section 13-10 provides that "[i]f an objection to any part of a request for production is overruled, compliance with the request shall be made at a time to be set by the judicial authority." The 14 days for compliance requested by plaintiffs is not reasonable, for the reasons set forth above. Furthermore, setting an unreasonable time frame of 14 days – before any objections are even filed and before the parties meet and confer on June 2, 2016 – is arbitrary and inappropriate and does not take into account the substantial amount of time necessary to compile documents and electronically stored information requested by the plaintiffs.

18. Remington also objects to having the Court schedule a hearing the week of June 6, 2016 to resolve any discovery objections, which the parties will not even meet and confer on until June 2, 2016. The week of June 6, 2016 is not a reasonable or convenient week for the scheduling of a hearing. As plaintiffs are well aware, defendants have filed a Motion to Strike, to which the plaintiffs have agreed to file a response by May 27, 2016. Defendants' reply to the plaintiffs' response to the Motion to Strike is due on June 10, 2016 -- the very week plaintiffs want to schedule a hearing on discovery objections which have not been filed until May 16, 2016 and to which the parties will not even discuss resolution until June 2, 2016. Scheduling a hearing during that week when Remington will be diligently preparing its reply to the plaintiffs' yet to be filed opposition to the Motion to Strike is not convenient or reasonable.

19. The Court has already scheduled a monthly status conference for June 20, 2016, the date on which it also will hear argument on the Motions to Strike. There is no conceivable reason why a resolution of any remaining discovery objections – that the parties will not even discuss until June 2, 2016 -- cannot be taken up on that June 20, 2016 status conference date.

20. Plaintiffs' requests set forth in its Partial Objection to Remington's Motion for Extension of Time, and the proposed scheduling set forth in that Partial Objection, is inconsistent with the Court's order of April 14, 2016. That order states, *inter alia*, the following: "Discovery objections will not be considered by the Court (and may be summarily denied without prejudice) unless an affidavit is filed with the court that states that counsel and self-represented parties had made good faith efforts to resolve the dispute. (See Practice Book Sections 13-8(b), 13-10(c))." No such affidavit has been filed with the Plaintiffs Partial Objection to Motion for Extension of Time, yet they nevertheless are requesting orders of the Court that would require Remington to begin responding to Requests for Production of Documents on May 16, 2016 – only 4 days from the date they filed the Motion.

21. Furthermore, the Order dated April 14, 2016 contemplates that the Court intends to take up Motions that are ripe for adjudication during the monthly status conferences scheduled in the case. In this case, the next monthly status conference is scheduled for May 26, 2016, ten days after the date on which Plaintiffs are requesting the Court to order that Remington begin filing responses to the Requests for Production.

WHEREFORE, for all the foregoing reasons, Remington respectfully requests the Court to overrule the Plaintiffs' Partial Objection and to grant Remington's Motion for Extension of

Time permitting Remington to file objections to plaintiffs' Requests for Production by May 16, 2016 and responses commencing June 13, 2016.

THE DEFENDANTS,

REMINGTON OUTDOOR COMPANY, INC.
& REMINGTON ARMS COMPANY, LLC

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was mailed on May 16, 2016 to the following counsel:

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